

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
45 Fremont Street, 21st Floor  
San Francisco, California 94105

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**File No. RH-05-046947**

Notice Date: July 28, 2005

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2006.

**SUBJECT OF HEARING**

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization; (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995; (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of Data; and (4) amendments to the California Workers' Compensation Experience Rating Plan—1995. The hearing will be held in response to a filing, submitted on July 28, 2005, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

**AUTHORITY AND REFERENCE**

**Uniform Plans and Regulations**

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

**Pure Premium Rates**

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved

by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

### Advisory Rating Plans

Pursuant to Insurance Code Sections 11750.3(a) and 11750.3(c), a licensed rating organization may promulgate advisory plans in connection with pure premium rates and the administration of classification and rating systems and present them to the Insurance Commissioner for review.

### **HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**September 16, 2005 – 9:30 A.M.  
California Department of Insurance  
22nd Floor Hearing Room  
45 Fremont Street  
San Francisco, California**

### **INFORMATIVE DIGEST**

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the uniform statistical reporting plan or the classification system developed by the WCIRB and approved by the Insurance Commissioner.

The pure premium rates recommended by the WCIRB to be effective January 1, 2006, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of

Data, and the California Workers' Compensation Experience Rating Plan—1995, are detailed in the WCIRB's filing and summarized below.

## **APPROVE PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of the risk on or after January 1, 2006. The proposed advisory pure premium rates are 5.2% less than the July 1, 2005 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies as of the first anniversary rating date of the risk on or after January 1, 2006 are based on (a) insurer losses incurred during 2004 and prior accident years valued as of March 31, 2005; (b) insurer loss adjustment expenses for 2004 and prior years; (c) the cost impact of recent reform legislation (Assembly Bill No. 749, Assembly Bill No. 227, Senate Bill No. 228, and Senate Bill No. 899) on 2006 policies; (d) the experience rating off-balance correction factor; and (e) classification payroll and loss experience reported for policies issued during 2002 and prior years.

## **AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 to become effective January 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of the risk on or after January 1, 2006:

- Amend the effective date rule to clarify current publication protocols and for consistency with proposed amendments to the California Workers' Compensation Experience Rating Plan—1995 and the Miscellaneous Regulations for the Recording and Reporting of Data.
- Amend the minimum and maximum annual payroll for executive officers, partners, and sole proprietors to increase the maximum from \$84,500 to \$87,100 and the minimum from \$31,200 to \$32,500 as well as other payroll limitations relevant to specific classifications (e.g., athletic teams, entertainment classifications, etc.), to reflect wage inflation since the last time these amounts were adjusted (January 1, 2005).
- Amend all dual wage construction classifications – with the exception of the painting, plumbing, automatic sprinkler installation and excavation classifications – to increase the hourly wage thresholds by \$1.00 to reflect wage inflation since the last time the thresholds were adjusted.
- Amend the classification for contractors – construction or erection – executive supervisors (Classification 5606) to: (a) better define the levels of supervision required;

(b) clarify its application to executive level supervisors who exercise control through subcontractors; and (c) prohibit the division of a single employee's payroll between Classification 5606 and any other classification.

- Amend the “Temporary Labor Service Contractors” rule to conform to recently adopted changes in the California Workers’ Compensation Experience Rating Plan—1995 and for editorial purposes.
- Establish a new classification applicable to firms providing legal support services to attorneys.
- Amend the classification for electrical machinery or auxiliary apparatus to include division of payroll language in the classification phraseology.
- Eliminate the classifications pertaining to computer or computer peripheral equipment manufacturing, telecommunications equipment manufacturing, and audio/visual electronic products manufacturing and create distinct sub-classifications to the electronic instrument manufacturing classification.
- Establish a new classification applicable to the manufacturing of non-electronic scientific or medical instruments.
- Amend the classifications applicable to municipalities and other public agencies to clarify the applicability of Classification 8742 for outside salespersons and to make other clarifying and editorial changes.
- Amend the classification for instrument manufacturing – professional or scientific, to limit the application of this classification to manufacturers of electronic instruments and establish it as a cross-reference classification.
- Amend the classification for phototypesetting to (a) re-designate the classification as Electronic Prepress – all operations and (b) establish a sub-classification designated as graphic design – all operations.
- Establish a new classification applicable to the manufacturing of speakers.
- Eliminate the sub-classification applicable to umbrella manufacturing.
- Amend the Plan for editorial purposes and for clarity and consistency.

## **AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data to become effective January 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of the risk on or after January 1, 2006:

- Amend the effective date rule to clarify current publication protocols and for consistency with proposed amendments to the California Workers' Compensation Experience Rating Plan—1995 and the California Workers' Compensation Uniform Statistical Reporting Plan—1995.

## **AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan—1995 to become effective January 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of the risk on or after January 1, 2006:

- Amend the effective date rule to clarify current publication protocols and for consistency with proposed amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and the Miscellaneous Regulations for the Recording and Reporting of Data.
- Amend the Experience Rating Eligibility threshold from \$23,288 to \$22,700 to reflect wage inflation and the proposed January 1, 2006 pure premium rate change.
- Amend the average death value to reflect more current experience and an adjustment to reflect the change in credibility resulting from the changes to the primary/excess loss split formula and the credibility values.
- Amend the D-ratios to reflect the most current experience and the proposed change in the primary/excess loss split formula.
- Amend the primary/excess loss split formula to specify that the first \$10,000 of each loss is considered primary.
- Amend the credibility ("B" and "W") values of the plan to reflect the most current available experience.
- Amend the expected loss rates to reflect more current experience and an adjustment to reflect the change in credibility resulting from the changes to the primary/excess loss split formula and the credibility values.

## **ADVISORY PLANS**

### **CALIFORNIA INSOLVENT INSURER RATING ADJUSTMENT PLAN**

The WCIRB has adopted the following revisions to the California Insolvent Insurer Rating Adjustment Plan. The changes will become effective January 1, 2006:

- Amend the Plan rating values to reflect the most current experience.

### **COSTS OR SAVINGS RESULTING FROM THE REGULATIONS**

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in lower costs.

### **COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Insurance Commissioner has determined that there may be a cost savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein and implemented by insurers.

### **IMPACT ON HOUSING COSTS**

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

### **IMPACT ON SMALL BUSINESSES**

The Insurance Commissioner has determined that the proposed regulations, if adopted by insurers, will not have a significant effect on small businesses.

### **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

### **FEDERAL FUNDING TO THE STATE**

The matters proposed herein will not affect any federal funding.

## **NON-DISCRETIONARY COSTS OR SAVINGS**

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

## **COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

## **REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

## **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attn: Christopher A. Citko  
Senior Staff Counsel  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

#### **DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 5:00 PM on Friday, September 23, 2005.

#### **TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing, and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org/filings](http://www.wcirbonline.org/filings).

#### **ACCESS TO RULE MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17<sup>th</sup> Floor, Sacramento, California 95814, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

#### **AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.



## **ADOPTION OF REGULATIONS**

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

Dated: July 28, 2005

JOHN GARAMENDI  
Insurance Commissioner

By                                 /s/                                  
Christopher A. Citko  
Senior Staff Counsel